

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SYNCORA GUARANTEE INC., formerly :
known as XL CAPITAL ASSURANCE INC., :

Plaintiff,

- against -

EMC MORTGAGE CORPORATION,

Defendant.

: Index No. 09 Civ. 3106 (PAC)

: **NOTICE OF PLAINTIFF'S**
: **MOTION FOR LEAVE TO AMEND**
: **THE COMPLAINT**

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PLEASE TAKE NOTICE that upon the annexed Declarations of Philip R. Forlenza and accompanying exhibits, the Memorandum of Law, and all other papers, pleadings and proceedings had and filed herein, Plaintiff Syncora Guarantee Inc. will move this Court, before the Honorable Paul A. Crotty, in Courtroom 20C of the United States Courthouse, 500 Pearl Street, New York, New York, on a date to be determined by the Court, for an Order pursuant to Rules 15, 16 and 21 of the Federal Rules of Civil Procedure granting Plaintiff leave to file an amended complaint in the form attached as Exhibit 1 to the Declaration of Philip R. Forlenza, to (1) add Bear, Stearns & Co. Inc. (now known as J.P. Morgan Securities Inc.) as a defendant, and (2) state additional causes of action against Bear, Stearns & Co. Inc. (now known as J.P. Morgan Securities Inc.) and EMC Mortgage Corporation for fraudulent inducement and violation of the Securities Exchange Act of 1934 (including by means of fraud), against Bear, Stearns & Co. Inc. (now known as J.P. Morgan Securities Inc.) for tortious interference with contract, and against EMC Mortgage Corporation for reimbursement.

Dated: New York, New York
November 22, 2010

PATTERSON BELKNAP WEBB & TYLER LLP

By: /s/ Philip R. Forlenza
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